

competitive environment, however, they contend that providers must meet or exceed these standards to satisfy customer expectations. They believe that market-place incentives should dictate service quality.

Resolution: Service Quality Standards. The Commission agrees that market forces may soon effectively determine service quality standards for competitive providers. Nonetheless, in order to qualify for universal service funds, service providers should at least meet minimum service criteria. In other words, these service criteria are not a condition to entry into the market, but rather a requirement to qualify for support funds. Accordingly, with that clarification, we conclude that staff's proposal should be adopted.

Criteria for Defining Universal Service

Certain criteria should be adopted to help the Commission in future proceedings to identify what services are to be considered essential for universal service policy. The criteria should focus on whether a service is so essential to the use of the telecommunications network that no customer should, as a matter of public interest, be denied access to the service on the basis of affordability. The criteria, however, must also be sufficiently flexible to be useful in classifying future services. The need for and scope of universal service will undoubtedly change in unanticipated ways. Any rigid formula adopted in this proceeding might limit the Commission's review in future proceedings.

After a review of these considerations, the Commission concludes that the following factors be included in the consideration of what basic services are covered for purposes of universal service support:

1. What is the level of demand for the technology or service?
2. Does the service or technology enable customers to access other telecommunication services?
3. Is the service optional?
4. To what extent would support for the service burden the universal service fund?
5. Is the service or technology generally available without regulatory intervention?
6. Is the service or technology necessary or desirable for public policy reasons?

II. DESIGN OBJECTIVES

Staff Proposal

Staff's proposal contains the following design objectives:

General: A universal service fund should (1) be administratively simple and low cost, (2) provide a minimum amount of support necessary to maintain affordable basic network access service, and, (3) require the price of basic service to cover costs prior to applying universal service credits.

Collection criteria (who pays): Universal service should (1) be supported by a broad user base and (2) be as competitively neutral as possible.

Distribution criteria (who receives): Universal service should (1) maintain affordable basic local exchange service, (2) promote operating efficiency, and (3) eliminate artificial investment incentives.

Staff comments that a universal service mechanism will, of necessity, represent a compromise among potentially conflicting objectives, existing statutes, and a dynamic balance between regulation and competition.

Party Comments

There is broad agreement among the parties with the proposed design parameters. Most comments addressed issues of competitive neutrality or limiting support to carriers of last resort. These issues are discussed below in the collection and distribution sections.

GTE argues that "General" criterion 3 should state that price will cover cost plus a reasonable contribution. The company takes the view that, while the starting point for pricing is total service long run incremental cost (TSLRIC), that prices for all services should include some reasonable contribution level. In GTE's view, if service prices are capped at TSLRIC, then a firm cannot have a sustainable business, because there is no contribution to the common costs of the firm. In addition, GTE urges that whatever plan is adopted should retain some flexibility to respond to events at the federal level, so that eventually there can be a joint state/federal program.

Discussion

The General and Collection criteria track those set out in the Commission's opening order. Staff proposes two new distribution criteria, promotion of operating efficiency and elimination of artificial investment incentives. These are reasonable and should be adopted.

GTE's arguments in favor of including contribution are better addressed in UM 351. In effect, the "cost" of basic service referred to here as a design parameter will incorporate the costing policies and methodologies adopted by the Commission in that docket.

Resolution. The Commission adopts the proposed design objectives.

III. COLLECTION MECHANISM

Staff Proposal

Staff proposes two alternative funding mechanisms for universal service support:

1. An intrastate gross revenue fee assessed upon all intrastate telecommunications services, including dedicated private line and radio common carrier (RCC services), or
2. A combination of line charges on local exchange end users and network access usage charges on interconnected interexchange traffic (excluding EAS) and interconnected RCC traffic.

Staff prefers the gross revenue fee. Intrastate gross revenues include revenues derived from both regulated and non-regulated telecommunications and ancillary services excluding uncollectible revenue, but including payments (reductions to gross revenue) to other Oregon telecommunications providers who (1) record the payments as gross revenue and (2) are similarly subject to the intrastate universal service fee. Reducing gross revenues by access payments prevents universal service fees from being collected twice on the same revenue dollar. This would be the most competitively neutral way, in staff's view, to finance universal service, and would provide long-term means of funding all Oregon universal service subsidies. Staff believes, however, that implementation of this approach would require legislation to include services provided by RCCs, including cellular, in the definition of telecommunications service under ORS 759.005.

Staff's second choice, a combination of line charges and access charges, does not require legislation. Both LECs and certified alternative exchange carriers (AECs) would be responsible for billing line charges to their customers and for billing usage charges for interconnected interexchange and RCC traffic. This is similar to the mechanism in place today to fund the OTAP and TDAP programs (end user line charges) and the Oregon Universal Service Fund (OUSF) (terminating network access usage charges). This second approach is not as competitively neutral as the first because the universal service charge would not be applicable to all providers and services and may encourage bypass.

Summary of Party Comments

ELI, Teleport Communications Group (Teleport), Sprint/United, PTI, MCI, OCTA, and Parker Communications support staff's gross revenue fee approach. In general, these parties agree that the approach is competitively neutral. There is general agreement also that the Commission may not currently have the authority to include RCCs within the fee. Parties who support the proposal indicate, however, that they would support an effort by the Commission to seek legislative approval to cover RCCs. Support among these parties for the staff's second "line/usage" alternative is mixed at best. It is seen as an interim approach.

GTE, USWC, AT&T, and McCaw generally oppose staff's proposed collection mechanisms. These parties propose a retail end-user surcharge, based on access lines or their equivalent. Sprint also advocates this approach as an alternative to the gross revenue fee. Under this third option, each customer would pay the same amount regardless of provider and regardless of use. The surcharge would be competitively neutral and easy to administer. It would make the universal service charge explicit to the customer.

Discussion

Of the three mechanisms suggested, the first and third are the most competitively neutral, to the extent they can be applied to all or most providers. The staff's second alternative is primarily useful, as staff concedes, as an interim measure until a better mechanism is available, such as a gross revenue fee. At present, the retail end-user surcharge is arguably the most competitively neutral, assuming that the RCCs could not be made subject to the gross revenue charge.

Commission Authority. McCaw argues that the Commission has authority to authorize universal service support for RCCs under its general universal service authority, and because the Commission has already allowed LECs to use wireless technology for remote customers and held orders. Staff takes a contrary position, seeing the Commission's current authority over universal service as limited to LECs and AECs. Having reviewed the briefs of the parties, the Commission concludes that it does not have authority to impose a gross revenue charge and provide support to the RCCs under current Oregon law. The fundamental problem is that RCC services, such as cellular, were intentionally excluded from the definition of "telecommunications service" in ORS 759.005(2)(g). The universal service goals of the state are limited by statute to the support of telecommunications service. ORS 759.015. McCaw is correct that telecommunications service has been interpreted broadly. This has occurred, however, where the service provided (wireless, yellow pages, access, inspection and repair) was a part of or associated with regulated service. Where, by statutory definition, a RCC is not a regulated public utility, and its service not a telecommunications service, the Commission has no basis to incorporate RCCs in the universal service support mechanisms.

The situation is different for AECs. Unlike RCCs, AECs provide “telecommunications service.” *See* ORS 759.005(2)(g). Moreover, while AECs are excluded from the definition of “telecommunications utility” under ORS 759.005(1)(b)(C), the Commission is authorized to require AECs to make universal service support contributions. Specifically, ORS 759.050(2)(c) provides:

At the time of certification of a telecommunications provider, or thereafter, the commission may impose reasonable conditions upon the authority of the telecommunications provider to provide competitive zone service within the competitive zone including, but not limited to, conditions designed to promote fair competition, such as interconnection, and contributions of the type required of a telecommunications utility on account of the provision of local exchange service, including those to the Residential Service Protection Fund or the Telecommunications Devices Access Program.

To ensure fair competition, the Commission could provide, as part of the conditions for certification, that the AEC’s customers be eligible for universal service support, provided that the support does not exceed the total contributions from the AEC or its customers. Such a condition would ensure that AEC customers are not being subsidized from funds raised under authority other than ORS 759.050(2)(c). For these reasons, the Commission concludes that AECs may be incorporated in the universal service mechanisms as set forth in this order.

Retail End-user Surcharge. There are public policy implications involved with the retail end-user surcharge. Use of a wholesale fee (gross revenue fee) treats the universal service fund as a cost of the system, or a cost to the companies operating in Oregon through which they contribute to enhance the infrastructure. While they are free to pass this cost on to customers, it is more consistent with the “infrastructure” philosophy than the surcharge. Stating the charge separately (“explicitly”) may create customer opposition and confusion, since it is likely to be perceived as a rate increase based on a subsidy, a welfare or social service charge grafted on to the rates which has little to do with the majority of customers. This in turn may threaten universal service goals. This is inconsistent with the historical view of universal service, in which the goal of greater penetration of service yields a network of greater value to all users.

Resolution. The Commission will adopt the gross revenue fee approach, excluding the RCCs on an interim basis, pending legislation to extend coverage to RCCs. The revenue fee is more competitively neutral than staff’s second choice. The impact of exclusion on the RCCs during the interim, in any event, may not be great, since they do not compete for local exchange service or currently act as carriers of last resort and are unlikely to do so in the near term. Administratively, the revenue fee should not be too burdensome. The mechanism is already in place, and the methodology is understood by staff and the providers. Calculation of gross revenues for most providers already takes place for purposes of the utility assessment. The gross revenue fee, as a wholesale charge, avoids the public policy problems created by a retail end-user surcharge.

IV. DISTRIBUTION MECHANISM

Staff Proposal

Staff identifies three different circumstances⁴ which warrant financial support in order to increase the affordability of basic telecommunications service. These are:

Category 1: Support for LECs whose overall rates would be excessive without universal service support. Under this category, financial support would be provided only to the regulated LEC, or those firms which currently have the responsibility to act as the local carrier of last resort.

Category 2: Support for targeted high-cost residential areas under a deaveraged rate design. Financial support under this category would be available independent of which telecommunications firm provides the NAC or its equivalent. Category 2 support would be made available only if and when the Commission orders the fully regulated LECs to implement a distance- and density- related deaveraged rate design.

Category 3: Expanded support for low-income residential customer assistance. Support under this category would also be available regardless of the telecommunications firm providing the network access channel (NAC) or its equivalent.

In summary, staff proposes that the Commission retain the current OCAF/OUSF⁵ pooling mechanism (Category 1a) for an interim period for small LECs and establish two new programs (Category 1b and Category 2) with an expanded OTAP program (Category 3) in response to local exchange competition and the UM 351 costing and re-pricing docket. While these additional programs will not protect residential ratepayers completely, they will provide the Commission with a mechanism to help control residential rate increases and foster universal service in a more competitively neutral fashion.

Category 1 - Support for High-Cost LECs

Staff Proposal

All regulated LECs that make available basic universal services as defined above would be eligible for Category 1 support under staff's proposal. LECs not able to provide the basic level of service would need to request a Commission waiver and submit a plan to remedy the service deficiency. The support mechanism would differ, depending upon whether or not the

⁴ No changes are recommended for the Lifeline Assistance (LA), TDAP, and OTRS programs.

⁵ Oregon Universal Service Fund

company is a current participant in OCAF. For the most part, the OCAF participants are smaller LECs, with the exception of PTI.

Category 1a: Support for LECs participating in OCAF.

For LECs participating in the OCAF pooling mechanism (including PTI), small LECs (less than 15,000 access lines) and cooperatives, staff proposes that the Commission should continue, at least for an interim period, to use the OCAF plan to provide high-cost LEC support and high-cost residential rate support (that is, both Category 1 and 2 support). The plan is designed to provide overall cost support for LECs, as well as protect basic residential service from increasing beyond a \$15 basic flat rate (excluding the \$3.50 federal subscriber line charge (SLC)). The plan provides cost controls designed to limit the growth of the fund. The current funding arrangement for the OCAF plan, based on a per minute charge on all intrastate terminating toll/access minutes, would be retained for the interim. As part of the proceeding to review OCAF in 1997, the Commission would reevaluate the use of OCAF to provide support for high-cost LECs and residential rates.

Staff makes a number of arguments in support of its proposal. First, the OCAF plan is designed to shift cost recovery from toll/access to local/EAS rates and provide universal service support to LECs that cannot make the cost recovery transition. Second, the Commission has limited authority over the local rates for small LECs and none for cooperatives. Third, small LECs and cooperatives are exempted from ORS 759.050 (local exchange competition) until January 1, 1998, which coincides with the end of the OCAF plan. Fourth, while 29 out of 33 Oregon LECs are exempted from ORS 759.050, the exempt companies serve only 7 percent of the state's access lines. At the present time, PTI is the only large LEC (access lines exceeding 15,000) participating in OCAF which is subject to competition under ORS 759.050. Staff believes that, while it may be appropriate to exclude PTI from the OCAF universal service mechanism at some future time, the additional administrative cost is not worth incurring at this time.

As previously discussed, services provided by RCCs are excluded from the definition of telecommunications services by ORS 759.005(2)(g)(A). RCCs, therefore, are not covered by ORS 759.050 and are not precluded from providing service in small LEC territories.

Category 1b: Support for LECs not participating in OCAF

For the large LECs which do not participate in OCAF, staff proposes that a high-cost LEC could qualify for support if its average intrastate cost per NAC for its entire service territory exceeds a predetermined benchmark after credits are taken into account due to federal universal service support, Category 2 universal service support, and contributions provided by toll and access services, directory publishing, and other vertical and miscellaneous services.

In developing the LEC's average network access line cost-estimates, embedded costs should be used, consistent with the LEC's intrastate revenue requirement. The Category 1b support mechanism would be designed to provide incentives to minimize cost. Two such incentives are (1) limiting the universal service recovery to a percentage of intrastate costs (e.g. 80 percent) of intrastate costs above the benchmark, or (2) setting growth limits on intrastate costs (e.g. not to exceed the growth in access lines adjusted by inflation and any productivity offsets) subject to this mechanism. The latter incentive mechanism is similar to the cost control mechanism currently in place in Category 1a support. A LEC's receipt of Category 1b support should not be conditional upon adherence to some Commission-specified utility rate structure requirements. However, the Commission would have authority as to the method used to provide universal service support to the LEC's customers. Funding for the large LECs eligible for Category 1b support would be incorporated into the collection mechanism proposed by staff, described below.

Summary of Party Comments

There is general agreement among the participants in the docket that Category 1a support (OCAF) should continue as scheduled until the end of 1997. There is only limited support, however, for extending support, via Category 1b, to large non-OCAF LECs. PTI argues that the existing universal service component of OCAF is narrow, and that it should be able to avail itself of Category 1b support if it otherwise qualifies. OITA urges that small non-OCAF LECs be allowed to qualify. OCTA urges adopting standards to narrow Category 1b. Much of the opposition of the remaining parties stems from the view that Category 1b is merely a "safety net" for incumbent LECs and would not be available to other providers such as AECs. A number of parties object to a requirement that they make payments to a plan which would distribute funds to LECs with operations in competitive zones. In addition, because support would be based on revenue requirement, Category 1b is criticized as a continuation of old "subsidy" thinking which is inconsistent with the move toward cost-based pricing. USWC and GTE question whether any company would actually qualify under the parameters set out by staff.

Sprint and MCI propose alternatives, both of which depart from revenue requirement based calculation of support. Both proposals calculate the universal service support amount based on the difference between a reasonable rate and the total service long-run incremental (TSLRIC) of basic service. MCI would base the reasonable amount on a nationwide average, while Sprint would have the Commission set the rate.

Discussion

Staff and all parties agree that OCAF should continue as scheduled until the end of 1997. The more difficult issue is whether there should be additional support available, under Category 1b, if a LEC's average cost per NAC exceeds a benchmark rate. Sprint, MCI, and others question the reliance of Category 1b on a revenue requirement approach to determine LEC cost.

The alternatives proposed by MCI and Sprint, however, are essentially variations on Category 2 support. They would move the LECs away from revenue requirement cost calculation immediately. This is premature. Staff's Category 1b proposal is consistent with the fact that nearly all LECs in Oregon are still regulated on a rate of return basis. Rate of return regulation is likely to continue for some Oregon companies for the foreseeable future. Both MCI and Sprint proposals acknowledge that the TSLRIC approach might leave a shortfall which would need to be made up by supplemental support. To meet concerns about LEC costs, staff proposes cost-control incentives for companies receiving Category 1b support. From a LEC customer perspective, Category 1b mitigates the rate impact as competition takes hold in the Oregon telecommunications market. In addition, the groundwork required to develop and implement Category 1b support will be useful as the Commission reviews universal support options in two years.

Resolution. The Commission adopts Category 1 support (1a and 1b). Both categories should continue only until the end of 1997, however. Category 1b would only be available to large LECs not participating in OCAF. The benchmark for calculating eligibility for receiving support would be developed in Phase II of this proceeding. At the end of 1997, the Commission will review the continuing need for Category 1b support to determine whether future universal service funds should be limited to Category 2 and 3 support.

Category 2 - High Cost Residential Customers Under a Deaveraged Rate Design

Staff Proposal

Category 2 support is targeted at residential customers of large LECs (which do not already receive support through OCAF) who live in sparsely populated areas, are costly to serve, and receive at least basic universal service as defined above. Category 2 support would be triggered if and when the Commission orders the fully-regulated LECs to implement the deaveraged rate design.

Staff believes this category of support should be available independent of the telecommunications provider. Residential customers would qualify for support if the TSLRIC that would be incurred if service were provided through their currently regulated telecommunications provider is greater than a benchmark target of \$25 per month inclusive of the federal SLC. Given that the TSLRIC of the staff-identified dense and less-dense NACs is much less than \$25 per month, staff believes that the only NACs that would qualify for this kind of support would be "sparse" type NACs.⁶ Each LEC, therefore, would have to identify the geographic areas served by its sparse-type NACs and the residential customers served by those high-cost NACs. A limit of one universal service credit per qualifying household would be

⁶ Dense, less-dense, sparse network access channels (NACs) are classifications under discussion in UM 351.

available. Administrative tracking to ensure this limitation, regardless of provider, would be required via a “virtual voucher” mechanism monitored by an independent administrator. The level of financial support available to residential customers would equal the difference between TSLRIC for sparse-type NACs and \$25. For example, if the TSLRIC of sparse-type NACs averages around \$45 per month, the level of support would be \$20.

Summary of Party Comments

There is general support among the parties for Category 2 support. The primary difference of opinion has to do with whether distribution should be limited to the carrier of last resort. To the extent the plan allows any provider of service to receive universal service support, LECs (GTE, USWC, PTI) have a major concern about the effect of providers who are not carriers of last resort (AECs, RCCs) picking and choosing customers, receiving the universal service distribution, but not assuming any general obligation to serve.

Discussion

Category 2 support provides support targeted to customers who would face unreasonably high local rates because of the cost of their NAC. This support would only be implemented, however, if the Commission were to order deaveraging on the part of the fully regulated LECs. The most likely recipients would be those customers who are served by so-called “sparse-type” NACs. This is the only category of NAC currently expected to exceed the benchmark rate of \$25 proposed by staff.

As noted, the chief concern raised in the comments was the fact that staff proposes that this support would be available to all providers. The LECs argue that this would enable AECs or other providers to receive support for providing service selectively to their desirable customers without undertaking the cost of carrier of last resort obligations. The Commission is not persuaded that this concern is warranted. The customers targeted for Category 2 support are by definition located in less populated areas which are costly to serve. Only residential customers would qualify. The degree to which AECs or others will seek out this particular market in the near term would seem limited at best.

Resolution. The Commission will adopt Category 2 support as proposed by staff. This aspect of the distribution mechanism will provide a means of mitigating the significant rate increases which some customers could incur if deaveraging is implemented. The support should be available regardless of provider. The Commission’s authority to provide support to customers of providers other than LECs is discussed above. The LECs’ concern that this mechanism makes them subject to “cherry picking” of the most desirable customers by competitors, is substantially mitigated by the fact that Category 2 support relates only to residential customers served by high-cost NACs. Moreover, deaveraging, if it occurs, will result from a Commission decision in

UM 351. At this point, it is not clear whether the parties will recommend deaveraging in the near term.

Category 3 - Support to Low-Income Residential Customers

Staff Proposal

Under staff's proposal, Category 3 universal service support would be targeted to low-income customers statewide. Staff points out that the first two categories of support may not be sufficient to make the telecommunications services covered by the universal service definition available to low-income customers. If basic residential service still costs \$25 per month after the first two categories of support are applied, staff's position is that this is too high for low-income customers.

The third category of support would be a universal credit on the customer's bill which would be targeted specifically at low-income residential customers. A customer would qualify for only one credit, regardless of the number of lines purchased. For customers also eligible for Category 2 support, the two categories of support would have to be applied to the same provider.

Staff recommends that the initial maximum monthly charge net of credits should be \$11.50 for basic services as defined in this order. The level is based on a benchmark local exchange rate of \$15.00, which the Commission established for OCAF in Order No. 93-1133, less the \$3.50 per month intrastate OTAP credit. The maximum charge would be subject to periodic review by the Commission, and adjustment if necessary. The low income credit would supplement the existing OTAP, which provides a local service rate reduction of \$3.50 per month for qualified low-income customers. This matches the FCC Subscriber Line Charge waiver, which also amounts to a \$3.50 waiver, for a total reduction of \$7.00. OTAP is currently limited to customers of LECs and cooperatives. Funds to operate the OTAP and to provide the match for SLC waivers, as well as the TDAP and OTRS programs, are obtained by means of a \$0.25 per line surcharge currently assessed on the customers of LECs, cooperatives, AECs and cellular companies.

Staff recommends that Category 3 supplemental funding be funded using the same funding mechanism proposed for Category 2. In general, the size of the supplemental low-income credit equal the difference between \$11.50 and the rate for basic residential service, less the state OTAP credit, \$3.50 and any high-cost residential NAC credit received under Category 2 support.

Staff provides the following illustration:

| | |
|--------------------------------------|--------------|
| TSLRIC sparse NAC | \$45.00 |
| Commission approved residential rate | 41.50 |
| Federal SLC | <u>3.50</u> |
| Total residential rate to cover cost | 45.00 |
| Subtract: | |
| Category 2 high-cost NAC credit | 20.00 |
| Federal SLC waiver | 3.50 |
| <u>State OTAP (statutory)</u> | <u>3.50</u> |
| Balance | 18.00 |
| Subtract: | |
| <u>Benchmark low-income rate</u> | <u>11.50</u> |
| Supplemental Category 3 support | 6.50 |

If a provider were to charge more or less than TSLRIC, the Category 3 supplemental low-income support would be increased or decreased accordingly. For customers of competitive AECs, the supplemental low-income credit would be \$10.00 in the above example. The additional \$3.50 reflects the fact that competitive providers are not required to charge the federal SLC and currently do not participate in OTAP.

Summary of Party Comments

Overall, there is general agreement with staff's Category 3 support proposal, although McCaw takes the position that supplementing OTAP may be premature at this time, in light of the recent increase approved by the legislature.

Discussion

There is an issue as to whether, by setting a maximum access line surcharge for the OTAP program by statute, the Oregon legislature precluded any broader Commission action to assist low-income customers, such as the Category 3 plan here. Staff briefed the issue, concluding that the Commission had the necessary authority. First, the original 1987 statutory provisions indicate that the legislature did not intend the OTAP funding mechanism to be the sole means to finance universal service. Although the 1987 Act specifically states that the maximum access line surcharge is the most that can be assessed, the restriction relates only to the surcharge to support the OTAP program created by that specific legislation. The legislature did not repeal the generic funding mechanism already in existence and based on separate authority in ORS 759.030(9). In enacting the OTAP legislation, therefore, the legislature intended to

supplement, not supersede, the existing universal service provisions. Second, section 4 of the 1987 Act authorizes the Commission to approve differential rates for low income ratepayers to help carry out the state's universal policy goals. The legislative history of that provision shows that the legislature did not intend the differential rate authorization to be limited to merely OTAP. In separate testimony before both houses, Representative Eachus, chair of the House Telecommunications Subcommittee to the House Environment and Energy Committee, indicated that the differential rate language would allow the Commission to operate a low income program separate from that funded by the OTAP access line surcharge. For these reasons it is reasonable to conclude that the Commission's authority under ORS 759.030(9) is not restricted by the funding limits found in the statutory OTAP program and that the Commission has current authority to expand low income support as proposed by staff.⁷

Resolution. For the reasons discussed above in the description of the proposal, the Commission adopts the Category 3 support proposal.

DURATION OF UNIVERSAL SERVICE PLAN

The Commission will conduct a review of the universal service approach adopted in this order in two years. The review will coincide with the expiration of the OCAF Plan at the end of 1997 and the determination of additional issues in that docket. The review also will occur after the 1997 legislature has decided whether to extend the life of chapter 290, Oregon Laws 1987, including the low income differential rates authorization and OTAP. Adoption of this two year review period will allow the Commission to amend or supplement the universal service plan to take into account new developments in technology, competition, and in the federal treatment of universal service.

ORDER

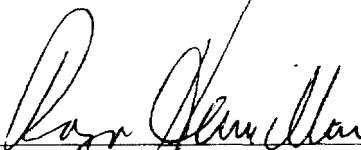
IT IS ORDERED that:


1. The universal service plan set forth in this order is adopted.
2. This docket shall proceed to Phase II for a determination of implementation issues related to the universal service plan

⁷ The Commission acknowledges that section 4 of chapter 290, Oregon Laws 1987, along with the specific programs prescribed in the 1987 Act are scheduled to sunset on January 1, 1998. Section 16, chapter 290, Oregon Laws 1987, as amended.

3. The Commission will review its universal service plan during 1997 to coincide with the review arising from the expiration of the OCAF plan.

Made, entered, and effective **OCT 17 1995**.


Roger Hamilton
Chairman


Ron Eachus
Commissioner




Joan H. Smith
Commissioner

A party may request rehearing or reconsideration of this order pursuant to ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-14-095. A copy of any such request must also be served on each party to the proceeding as provided by OAR 860-13-070(2)(a). A party may appeal this order to a court pursuant to ORS 756.580.

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**OREGON ADMINISTRATIVE RULES
CHAPTER 860, DIVISION 23 - PUBLIC UTILITY COMMISSION**

DIVISION 23

SERVICE STANDARDS

Exemption for Telephone Utilities Partially Exempt from Regulation Under ORS 759.040

860-23-000 The rules contained in this division do not apply to telecommunications utilities partially exempt from regulation under ORS 759.040.

Stat. Auth.: ORS Ch. 183, 756, 759

Hist.: PUC 6-1993, f. & ef. 2-19-93 (Order No. 93-185)

Maintenance of Plant and Equipment

860-23-005 Each utility shall have and maintain its entire plant and system in such condition that it will furnish safe, adequate, and reasonably continuous service. Each utility shall inspect its plant distribution system and facilities in such manner and with such frequency as may be necessary to insure a reasonably complete knowledge as to their condition and adequacy at all times. Such record shall be kept of the conditions found as the utility itself shall consider necessary for the proper maintenance of its system, unless in special cases a more complete record be specified by the Commission.

Stat. Auth.: ORS Ch. 756

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order 74-307)

Use of Gas, Electric and Water Meters

860-23-010 (1) Electrical energy sold by a utility shall be charged for by meter measurements, except that which may be otherwise authorized by the Commission. All meter measurements for gas service shall be converted to a therm basis for billing purposes.

(2) Unless otherwise authorized by the Commission, each utility shall continue to own, maintain, and operate all equipment necessary for the regulation and measurement of electricity, gas or water to its customers. Where additional meters are furnished by the utility or meters are relocated for the convenience of the customer, a reasonable charge for such meters may be made in accordance with a schedule approved by the Commission.

(3) No utility shall make a charge for furnishing, installing or maintaining any meter or other appliance for measurement purposes except by permission of the Commission, or as provided in rules 860-21-050(1) and 860-21-055. The amount so paid shall be refunded to the customer by allowing him a credit of one-half (1/2) of the monthly bill until such time as the amount has been paid, provided such refund payments do not run for more than three years from the date when the refund began.

(4) No rental shall be charged by any utility for any meter or appliance installed by it, which is used by the utility as a basis for the rendering of bills, except when an additional meter or appliance may be requested by the customer for his convenience.

(5) The utility shall have the right to set meters or other devices for the detection and prevention of fraud or waste, without notice to the customer.

(6) No utility shall use prepayment meters except in special cases or for clearly defined special classes of service authorized by the Commission.

(7) Should damage result to the meter from molesting or willful neglect on the part of the customer, the utility shall repair or replace the meter and it may bill the customer for the cost.

Stat. Auth.: ORS Ch. 756

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order 74-307)

Testing Gas, Electric and Water Meters

860-23-015 (1) All meters shall be tested before installation, or within 30 days thereafter, and no meter will be placed in service or be allowed to remain in service which has an error in registration in excess of 2 percent under conditions of normal operation. This requirement may be waived by written agreement if the utility provides an approved random sampling technique for testing new meters.

(2) New meters, repaired meters and meters that have been removed from service shall be correct to within two percent fast or slow before being installed or reinstalled.

(3) Each utility shall adopt schedules for periodic tests and repairs of meters. The length of time meters shall be allowed to remain in service before receiving periodic tests and repairs is to be determined from periodic analysis of the accuracy of meters tested. The schedules adopted shall be subject to the approval of the Commission.

(4) Whenever any meter is tested, the utility shall prepare a test record, including the information necessary for identifying the meter, the reason for making the test, the reading of the meter, and the result of the test, together with all data taken at the time of the test in sufficiently complete form to permit the convenient checking of methods employed. The utility shall retain the current and immediately prior test records for all meters tested.

(5) Each utility shall, unless specifically excluded by the Commission, provide such laboratory meter-testing equipment and other equipment and facilities as may be necessary to make the tests required of it by these rules or other orders of the Commission. The apparatus and equipment so provided shall be subject to the approval of the Commission.

Stat. Auth.: ORS Ch. 756

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order 74-307)

**OREGON ADMINISTRATIVE RULES
CHAPTER 860, DIVISION 23 - PUBLIC UTILITY COMMISSION**

Stat. Auth.: ORS Ch. 756
Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order 74-307)

Heating Value

860-23-045 (1) Each gas utility shall file with the Commission, as part of its schedules of rates or rules and regulations, the average total heating value of the gas together with the indicated maximum expected fluctuation above and below the average total heating value which may be expected of a gas supplied by it in each district, division or community served.

(2) In maintaining the established heating value, the chemical composition and specific gravity shall be such as to attain satisfactory combustion in the customer's appliances at all times without repeated readjustment of the burners.

(3) When supplemental or substitute gas is distributed by a utility, the gas quality shall be such that the utilization performance will be satisfactory, regardless of the heating value of the gas.

Stat. Auth.: ORS Ch. 756
Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order 74-307)

Heating Value Tests — Records and Reports

860-23-050 (1) Each gas utility shall test the heating value of manufactured or mixed gas being furnished to the distribution system at least once a day except Sundays and holidays. Original test data shall be recorded on the utility's standard forms and preserved for at least three years.

(2) Each utility supplying natural gas shall make sufficient tests, or have access to such tests made by its suppliers, as to maintain the established heating value.

(3) These tests shall be made at a location, or locations, which will insure a representative sampling of gas being sent out to the distribution systems. A monthly summary shall be made from these tests.

(4) The variation permitted from the established total heating value shall not exceed an amount consistent with normal satisfactory appliance operation.

Stat. Auth.: ORS Ch. 756
Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order 74-307)

Telephone Service Standards

Telephone Service Standards

860-23-055 Every exchange carrier shall adhere to the following service standards:

(1) Held Access Line Service Orders. Requests for access line (main) telephone service delayed over 30 days because of lack of outside plant or central office equipment shall be counted as held when service is not provided within 30 days after the commitment date. Alternatively, the date the order is

taken from the customer may be used in lieu of commitment date where it is not the utility's practice to establish commitment dates. At 60 days and over 120 days the order shall be moved to the appropriate period for which it has been held. A record of why each order is held shall be maintained together with the estimated "in service date." Orders requiring the customer to meet specific prerequisites (e.g., line extension charges) shall be measured from the time the prerequisites have been met.

(2) Held Regrade Service Orders. Requests for change in grade of an existing access line service delayed over 60 days, because of lack of outside plant or central office equipment, shall be counted as held when service is not provided within 60 days after the commitment date. Alternatively the date the order is taken from the customer may be used in lieu of commitment date where it is not the utility's practice to establish commitment dates. Requests for change in grade of an existing access line service delayed because of facility shortage shall be counted as a held order 60 days after the taken date and/or commitment date. At 120 days the order shall be noted to indicate it has been held for that period of time. A record of why each order is held shall be maintained together with the estimated "in service date." Orders requiring the customer to meet specific prerequisites shall be measured from the time the prerequisites have been met.

(3) Installation Due Date Commitments:

(a) At the time the request for access line service (excluding Key and PBX service) is taken, a customer shall be given a due date based upon the following mileage zones (where outside plant facilities are available):

| Zone | Due Date Objective |
|---------------------|---------------------------|
| 0-15 Miles | Three Working Days |
| 16-30 Miles | Five Working Days |
| Over 30 Miles | Seven Working Days |

(b) It is recognized that the "objectives" cannot consistently be met. Therefore, for reporting purposes the average number of days required to install service shall be the "due date period" of record for any given month. Mileage shall be measured from the point where employees engaged in service installation are normally assigned.

(c) Key, PBX, and special systems and lines shall be on a due date basis which is compatible with equipment and manpower availability. Each utility shall make all reasonable efforts to assure expeditious installation of its Key, PBX, special systems, lines and other special services.

(4) Dial Tone Speed. When measured 98 percent of originating average busy hour, call attempts shall receive dial tone within 3 seconds.

(5) Toll Operator Answering Time. 90 Percent of the Toll Operator Calls shall be answered within 10 seconds. (Equivalent measuring methods may be used.) This standard would be

OREGON ADMINISTRATIVE RULES
CHAPTER 860, DIVISION 23 - PUBLIC UTILITY COMMISSION

applied only if customer complaints of slow answers were received by the Public Utility Commission of Oregon.

(6) Directory Assistance Operator Answering Time. 84.9 percent of attempted calls shall be answered within 10 seconds.

(7) Trouble Reports:

(a) All utilities shall maintain a record of reported trouble. The record of reported trouble shall contain as a minimum requirement:

(A) Telephone number.

(B) Date and time received.

(C) Time cleared.

(D) Type of trouble reported.

(E) Location of trouble.

(F) Whether or not the present trouble report is within 30 days of the previous trouble report.

(b) Records may be kept in a format suitable for each utility's operation. Utilities are not required to forward such records to the Commission on a continuing basis. Records shall be kept in such condition that they can be forwarded to the Commission immediately upon request. All records shall be kept by central office designation for a period of one year.

(c) Service shall be maintained by the exchange carrier in such a manner that the monthly rate of all customer trouble reports, excluding reports concerning connecting company calls and customer premise equipment, does not exceed 5 per 100 local access lines per central office equipped with 1,000 or more access lines. The standard for central offices with less than 1,000 lines shall be 7 per 100.

(8) Subscriber Lines:

(a) All newly constructed and rebuilt subscriber lines shall be designed with the objective of no more than 8.5db transmission loss at 1,000 + -20 HZ (Hertz) from the serving central office to the customer premise network interface. All subscriber lines shall be maintained so that the transmission loss does not exceed 10db (decibels).

(b) All newly built and rebuilt subscriber lines shall be constructed and maintained so that metallic noise shall not exceed 20dBRNC. All subscriber lines shall be maintained so that metallic noise does not exceed 30dBRNC. (Decibels above reference noise level — C message weighting.)

(c) All subscriber lines shall provide a minimum range of 20 to 23 milliamperes of loop current from the central office to the customer premise network interface when terminated with 400 ohms.

(d) All combinations of subscribers' lines and central office switching equipment shall be capable of accepting and correctly processing at least the following network control signals from customer premise equipment:

(A) Dial Pulse — 8 to 12 pulses per second and 58 to 64 percent break.

(B) Tone Pulsing — 50 milliseconds DTMF (Dual Tone Multi Frequency) on 50 milliseconds DTMF tone off.

(9) Intraoffice, Interoffice, and Access Trunking:

(a) All intraoffice, interoffice, and access trunking and associated switching components shall be engineered and maintained to allow 99 percent completion of properly dialed calls to the trunk group during the average busy season without encountering blockages or equipment irregularities.

(b) All interoffice and access trunk groups shall be maintained so that the AML (actual measured loss) in no more than 30 percent of the trunks shall deviate from EML (expected measured loss) by more than .7db and no more than 4.5 percent of the trunks shall deviate from EML by more than 1.7db.

(10) Interexchange Carriers. All interexchange carrier facilities connected to the facilities of an exchange carrier shall be operated in a manner which will not impede the exchange carrier's ability to meet required standards of service. All exchange carriers shall report situations contrary to the above promptly to the Commission.

(11) Exchange carriers shall report to the Commission when the following conditions are exceeded where measured:

(a) Local calling — 3 percent of properly dialed local calls cannot be completed.

(b) Blockages on incoming trunks exceeding 1.5 percent and exceeding 3 percent on outgoing trunks.

(c) Trouble reports per 100 access lines exceeds: 5 per 100 local access lines for central offices equipped with 1,000 or more access lines or 7 per 100 for central offices with less than 1,000 access lines, excluding reports concerning connecting company calls and customer premise equipment.

Stat. Auth.: ORS Ch. 756

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order 74-307); PUC 23-1985, f. & ef. 12-11-85 (Order No. 85-1171)

Water Service Standards

Purity of Water Supply for Domestic Purposes

860-23-060 Each water utility delivering water for domestic purposes shall furnish a supply which shall at all times be free from injurious physical elements and disease-producing bacteria, and shall cause to be made such tests and take precautions as will insure the constant purity of its supply. A record of all tests and reports pertinent to the water supply shall be kept by the company.

Stat. Auth.: ORS Ch. 756

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order 74-307)

Adequate Pressure Required

860-23-065 Each water utility shall maintain pressure at a minimum of 20 pounds per square inch to each customer.

Stat. Auth.: ORS Ch. 756

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order 74-307)

OREGON ADMINISTRATIVE RULES
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(4) A licensee occupying part of a duct shall be deemed to occupy the entire duct.

(5) Licensees shall report all attachments to the conduit owner. A conduit owner may impose a penalty charge for failure to report or pay for all attachments. If a conduit owner and licensee do not agree on the penalty and submit the dispute to the Commission, the penalty amount will be five times the normal rental rate from the date the attachment was made until the penalty is paid. If the date the attachment was made cannot be clearly established, the penalty rate shall apply from the date the conduit owner last inspected the conduit in dispute. The last inspection shall be deemed to be no more than three years before the unauthorized attachment is discovered. The conduit owner also shall charge for any expenses it incurs as a result of the unauthorized attachment.

(6) The conduit owner shall give a licensee 18 months' notice of its need to occupy licensed conduit and shall propose that the licensee take the first feasible action listed:

(a) Pay revised conduit rent designed to recover the cost of retrofitting the conduit with multiplexing, optical fibers, or other space-saving technology sufficient to meet the utility's space needs;

(b) Pay revised conduit rent based on the cost of new conduit constructed to meet the utility's space needs;

(c) Vacate ducts that are no longer surplus;

(d) Construct and maintain sufficient new conduit to meet the utility's space needs.

(7) When two or more licensees occupy a section of conduit, the last licensee to occupy the conduit shall be the first to vacate or construct new conduit. When conduit rent is revised because of retrofitting of space-saving technology or construction of new conduit, all licensees shall bear the increased cost.

(8) All attachments shall meet local, state, and federal clearance and other safety requirements, be adequately grounded and anchored, and meet the provisions of contracts executed between the conduit owner and the licensee. A conduit owner may, at its option, correct any attachment deficiencies and charge the licensee for its costs. Each licensee shall pay the conduit owner for any fines, fees, damages, or other costs the licensee's attachments cause the conduit owner to incur.

Stat. Auth.: ORS Ch. 183, 756, 759

Hist.: PUC 6-1993, f. & ef. 2-19-93 (Order No. 93-185)

Service Standards

Maintenance of Plant and Equipment

860-34-380 Each utility shall have and maintain its entire plant and system in such condition that it will furnish safe, adequate, and reasonably continuous service. Each utility shall inspect its plant distribution system and facilities in such manner and with such frequency as may be necessary to insure a reasonably complete knowledge as to their condition and

adequacy at all times. Such record shall be kept of the conditions found as the utility itself shall consider necessary for the proper maintenance of its system, unless in special cases a more complete record be specified by the Commission.

Stat. Auth.: ORS Ch. 183, 756, 759

Hist.: PUC 6-1993, f. & ef. 2-19-93 (Order No. 93-185)

Telephone Service Standards

860-34-390 To the extent the utility provides these services the utility shall adhere to the following service standards:

(1) **Held Access Line Service Orders.** Requests for access line (main) telephone service delayed over 30 days because of lack of outside plant or central office equipment shall be counted as held when service is not provided within 30 days after the commitment date. Alternatively, the date the order is taken from the customer may be used in lieu of commitment date where it is not the utility's practice to establish commitment dates. At 60 days and over 120 days the order shall be moved to the appropriate period for which it has been held. A record of why each order is held shall be maintained together with the estimated "in service date." Orders requiring the customer to meet specific prerequisites (e.g., line extension charges) shall be measured from the time the prerequisites have been met.

(2) **Held Regrade Service Orders.** Requests for change in grade of an existing access line service delayed over 60 days, because of lack of outside plant or central office equipment, shall be counted as held when service is not provided within 60 days after the commitment date. Alternatively the date the order is taken from the customer may be used in lieu of commitment date where it is not the utility's practice to establish commitment dates. Requests for change in grade of an existing access line service delayed because of facility shortage shall be counted as a held order 60 days after the taken date and/or commitment date. At 120 days the order shall be noted to indicate it has been held for that period of time. A record of why each order is held shall be maintained together with the estimated "in service date." Orders requiring the customer to meet specific prerequisites shall be measured from the time the prerequisites have been met.

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| Zone | Due Date Objective |
|---------------------|--------------------|
| 0-15 Miles | Three Working Days |
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| Over 30 Miles | Seven Working Days |

(b) It is recognized that the "objectives" cannot consistently be met. Therefore, for reporting purposes the average number of days required to install service shall be the "due date period"

OREGON ADMINISTRATIVE RULES
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of record for any given month. Mileage shall be measured from the point where employees engaged in service installation are normally assigned.

(c) Key, PBX, and special systems and lines shall be on a due date basis which is compatible with equipment and personnel availability. Each utility shall make all reasonable efforts to assure expeditious installation of its Key, PBX, special systems, lines and other special services.

(4) Dial Tone Speed. When measured 98 percent of originating average busy hour, call attempts shall receive dial tone within 3 seconds.

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(C) Time cleared.

(D) Type of trouble reported.

(E) Location of trouble.

(F) Whether or not the present trouble report is within 30 days of the previous trouble report.

(b) Records may be kept in a format suitable for each utility's operation. Utilities are not required to forward such records to the Commission on a continuing basis. Records shall be kept in such condition that they can be forwarded to the Commission immediately upon request. All records shall be kept by central office designation for a period of one year.

(c) Service shall be maintained by the utility in such a manner that the monthly rate of all customer trouble reports, excluding reports concerning connecting company calls and customer premise equipment, does not exceed 5 per 100 local access lines per central office equipped with 1,000 or more access lines. The standard for central offices with less than 1,000 lines shall be 7 per 100.

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(a) Local calling — 3 percent of properly dialed local calls cannot be completed.

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Stat. Auth.: ORS Ch. 183, 756, 759

Hist.: PUC 6-1993, f. & ef. 2-19-93 (Order No. 93-185)

Construction and Safety Standards, General

Maps and Records

860-34-400 (1) Each utility shall keep on file current maps and records of the entire plant showing size, location, character and date of installation of major plant items.

(2) Upon request, each utility shall file with the Commission an adequate description or maps to define the territory served. All maps and records which the Commission may require the utility to file shall be in a form satisfactory to the Commission.

CERTIFICATE OF SERVICE

I certify that on the 10th day of April 1996, I served the foregoing INITIAL COMMENTS OF THE OREGON PUBLIC UTILITY COMMISSION upon the party(ies), hereto by mailing, regular mail, postage prepaid, a true, exact and full copy thereof to:

The Honorable Reed E. Hundt
Chairman
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Room 814
1919 M Street, N.W.
Washington, D.C. 20554

The Honorable Sharon L. Nelson
Chairman
Washington Utilities and
Transportation Commission
P.O. Box 47250
Olympia, WA 98504-7250

The Honorable Andrew C. Barrett
Commissioner
Federal Communications Commission
Room 826
1919 M Street, N.W.
Washington, D.C. 20554

The Honorable Laska Schoenfelder
Commissioner
South Dakota Public Utilities
Commission
500 E. Capital Avenue
Pierre, SD 57501

The Honorable Susan Ness
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Federal Communications Commission
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Federal Staff Chair
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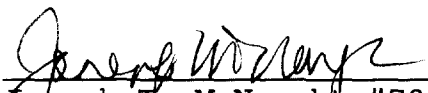
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| 22 | Sandra Makeeff | Teresa Pitts |
| | Iowa Utilities Board | Washington Utilities and |
| 23 | Lucas State Office Building | Transportation Commission |
| | Des Moines, IA 50319 | P.O. Box 47250 |
| 24 | | Olympia, WA 98504-7250 |
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| 26 | | |

PAGE 2 - CERTIFICATE OF SERVICE

| | | |
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 Joseph T. McNaught #78302
 Assistant Attorney General
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